

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

<b>EARL MITCHELL, JR.,</b>	)	<b>CASE NO. 4:09CV3174</b>
	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	<b>MEMORANDUM AND ORDER</b>
	)	
<b>ROBERT HOUSTON, Director Nebraska Dept. of Correctional Services,</b>	)	
	)	
<b>Respondent.</b>	)	

This matter is before the court on its own motion. On September 29, 2009, the Clerk of the court sent a Memorandum and Order (Filing No. [10](#)) to Earl Mitchell, Jr. ("Mitchell") at his last known address. On October 5, 2009, that document was returned to the court as undeliverable and resent to Mitchell at the forwarding address provided on the returned document. (Filing No. [11](#).) On October 13, 2009, the document was, again, returned to the court as undeliverable. (Filing No. [12](#).) The court entered a Memorandum and Order on December 29, 2009, requiring Petitioner to update his address no later than January 29, 2010. (Filing No. [16](#).) Petitioner has failed to do so. In its previous Memorandum and order, the court warned Petitioner that failure to inform the court of his current address by January 29, 2010 would result in dismissal without prejudice and without further notice. (*Id.*)

IT IS THEREFORE ORDERED that:

1. Plaintiff failed to respond to the court's December 29, 2009, Memorandum and Order requiring that he provide the court with a current address. This action is therefore dismissed without prejudice; and

2. A separate judgment will be entered in accordance with this Memorandum and Order.

DATED this 2<sup>nd</sup> day of February, 2010.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge

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